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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,575	10/16/2003	J. Elon Graves	23236-07284	2479
758	7590	11/14/2006	EXAMINER	
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041				PHAN, HANH
		ART UNIT		PAPER NUMBER
		2613		

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/688,575	GRAVES ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Hanh Phan	2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 16 October 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7,9,16-30,33-35,38-42 and 44 is/are rejected.
- 7) Claim(s) 8,10-15,31,32,36,37 and 43 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 October 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 23, 24 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

-Claim 23 recites the limitation "**the optical-to-electrical converter**" in line 1.

There is insufficient antecedent basis for this limitation in the claim.

-Claim 23 and 30, the phrase "defocused pupil images" is undefined. How to generate the defocused images.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 16-22, 25-29, 33, 34, 38-42 and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Dimmler et al (Pub. No.: US 2003/0067657 A1).

Regarding claims 1 and 34, referring to Figures 1, 2 and 7-9, Dimmler teaches a device (i.e., transceiver 24, Fig. 2) for wavefront sensing and data detection, the device (i.e., transceiver 24, Fig. 2) comprising:

an optical-to-electrical converter (i.e., communication receiver 68, Fig. 2, pages 2 and 3, paragraphs [0023]-[0028]) for receiving an optical beam encoded with data and converting the optical beam to an intermediate electrical signal, the intermediate electrical signal containing the data and further containing wavefront information about a wavefront of the optical beam; and

a separation module coupled to the optical-to-electrical converter for generating an electrical wavefront signal and an electrical data signal from the intermediate electrical signal, the electrical wavefront signal containing the wavefront information and the electrical data signal containing the data (As indicated in Fig. 2, inherently, there is a separation element in the communication receiver 68 to generate the electrical wavefront signal and the data signal, see pages 2 and 3, paragraphs [0023]-[0028] and page 5, paragraphs [0049]-[0057]).

Regarding claim 2, Dimmler further teaches the optical-to-electrical converter comprises: a photodetector (i.e., communication receiver 68, Fig. 2, pages 2 and 3, paragraphs [0023]-[0028]).

Regarding claim 3, Dimmler further teaches the optical-to-electrical converter comprises: a coherent detector (i.e., communication receiver 68, Fig. 2, pages 2 and 3, paragraphs [0023]-[0028]).

Regarding claim 16, referring to Figures 1, 2 and 7-9, Dimmler teaches an adaptive optics module for wavefront correction and data transmission, the adaptive optics module comprising:

a combined wavefront/data sensor (i.e., communication receiver 68, Fig. 2, pages 2 and 3, paragraphs [0023]-[0028]) for receiving an optical beam encoded with data and generating an electrical wavefront signal and an electrical data signal from the optical beam, the electrical wavefront signal containing wavefront information about a wavefront of the optical beam and the electrical data signal containing the data; and

a variable phase device (i.e., deformable mirror 48, Fig. 2) coupled to the combined wavefront/data sensor and located in an optical path of the optical beam, the variable phase device for introducing an adjustable phase in the optical path in response to the electrical wavefront signal (i.e., pages 2 and 3, paragraphs [0023]-[0028] and page 5, paragraphs [0049]-[0057]).

Regarding claims 17, 29, 38 and 42, Dimmler further teaches the combined wavefront/data sensor comprises: an optical-to-electrical converter for receiving the optical beam and converting the optical beam to an intermediate electrical signal, the intermediate electrical signal containing the data and the wavefront information; and a separation module coupled to the optical-to-electrical converter for generating the electrical wavefront signal and the electrical data signal from the intermediate electrical signal (i.e., Fig. 2, pages 2 and 3, paragraphs [0023]-[0028] and page 5, paragraphs [0049]-[0057]).

Regarding claims 18, 33, 39 and 44, Dimmler teaches further comprising: a transmitter (i.e., transmitter 33, Fig. 2) for generating a counter-propagating data-encoded optical beam, wherein the transmitter is located so that the variable phase device pre-corrects the counter-propagating data-encoded optical beam.

Regarding claims 19-21, 40 and 41, Dimmler further teaches the variable phase device comprises: a deformable mirror (Fig. 2, pages 4 and 5, paragraphs [0045]-[0054]).

Regarding claim 22, Dimmler further teaches the wavefront information includes wavefront curvature (i.e., Fig. 2, pages 2 and 3, paragraphs [0023]-[0028] and page 5, paragraphs [0049]-[0057]).

Regarding claim 25, Dimmler teaches further comprising: telescope optics for collecting the optical beam (Fig. 2).

Regarding claim 26, Dimmler further teaches the adjustable phase corrects only for aberrations that are of equal or lesser order than tip/tilt (i.e., Fig. 2, pages 2 and 3, paragraphs [0023]-[0028] and page 5, paragraphs [0049]-[0057]).

Regarding claim 27, Dimmler further teaches the adjustable phase corrects for at least one aberration that is of equal or greater order than focus (i.e., Fig. 2, pages 2 and 3, paragraphs [0023]-[0028] and page 5, paragraphs [0049]-[0057]).

Regarding claim 28, Dimmler further teaches the optical beam comprises a primary beam encoded with the data and a co-propagating probe beam; and the combined wavefront/data sensor comprises: a first detector layer sensitive to a wavelength of the primary beam, for converting the primary beam to the electrical data

signal; and a second detector layer sensitive to a wavelength of the probe beam and overlapping with the first detector layer, the second detector layer for converting the probe beam to the electrical wavefront signal (see Figs. 7-9 and pages 2 and 3, paragraphs [0023]-[0028] and page 5, paragraphs [0049]-[0057]).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 4-6, 9 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dimmler et al (Pub. No.: US 2003/0067657 A1) in view of Devon (US Patent No. 5,546,211).

Regarding claims 4-6, 9 and 35, Dimmler teaches all the aspects of the claimed invention as set forth in the rejection to claims 1 and 34 above excepts fails to specifically teach within the intermediate electrical signal, the wavefront information and the data are separated in frequency and the separation module separates the wavefront information and the data on the basis of frequency. Devon, from the same field of endeavor, likewise teaches an optical wireless receiver for receiving an infrared data signal (Fig. 2). Devon further teaches the optical wireless receiver comprising a highpass filter for selecting the high frequency signal and a lowpass filter for selecting the low frequency signal (Fig. 2, col. 4, lines 35-67 and col. 5, lines 1-42). Based on this

teaching, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the optical wireless receiver including a highpass filter and a lowpass filter as taught by Devon in the system of Dimmller. One of ordinary skill in the art would have been motivated to do this since allowing selecting the wanted signal and eliminating the unwanted signal.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dimmller et al (Pub. No.: US 2003/0067657 A1) in view of Devon (US Patent No. 5,546,211) and further in view of Hirohashi et al (US Patent No. 5,532,858).

Regarding claim 7, the combination of Dimmller and Devon teaches all the aspects of the claimed invention as excepts fails to specifically teach the data is encoded with a zero DC component. Hirohashi, from the same field of endeavor, likewise teaches an optical wireless receiver for receiving an infrared data signal (Figs. 1-15). Hirohashi further teaches the data is encoded with a zero DC component (i.e., Figs. 15A and 15B, col. 1, lines 57-67 and col. 1, lines 1-6). Based on this teaching, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the data is encoded with a zero DC component as taught by Hirohashi in the system of the combination of Dimmller and Devon. One of ordinary skill in the art would have been motivated to do this since allowing the coded data signals contain no direct current (DC) component and permitting easy and complete synchronization.

***Allowable Subject Matter***

8. Claims 8, 10-15, 24, 31, 32, 36, 37 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcome the 112 rejection.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

*Hanh Phan*  
HANH PHAN  
PRIMARY EXAMINER